

**STATE OF CALIFORNIA**  
**DEPARTMENT OF FOOD AND AGRICULTURE**  
**MARKETING BRANCH**



**2000 EXTRACTS**  
**FROM THE**  
**FOOD AND AGRICULTURAL CODE**  
**PERTAINING TO THE**  
**THE DAIRY COUNCIL OF CALIFORNIA**

**DIVISION 22. MARKETING ADVISORY AND PROMOTIONAL AGENCY LAWS**

**PART 2. MARKETING ADVISORY AND PROMOTIONAL COUNCILS AND COMMISSIONS**

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DAIRY COUNCIL OF CALIFORNIA LAW

2000 FOOD AND AGRICULTURE CODE

DIVISION 22 MARKETING ADVISORY AND PROMOTIONAL AGENCY LAWS

CHAPTER 1. THE DAIRY COUNCIL OF CALIFORNIA LAW

**Article 1. Short Title and Definitions ..... 64001-64017**

64001. This chapter shall be known as the Dairy Council of California Law.

64002. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

64003. "Council" means the Dairy Council of California.

64004. "Cream" means that portion of milk, rich in milk fat, which rises to the surface of milk on standing, or is separated from it by centrifugal force.

64005. "Dairy products" includes milk and any derivative of milk which is in natural, processed, or manufactured form, or which constitutes a part of another article, commodity, or product.

64006. "Fiscal year" means the period from July 1 in any one year to and including June 30th of the following year.

64007. "Handler" means any person that, as owner, agent, or broker, purchases, or otherwise acquires from a producer, producer-handler, or another handler, possession or control of milk, skim milk, or cream, in the form of unprocessed milk, skim milk, or cream, or in any other unprocessed form, for the purpose of processing it.

64008. "Manufacturing milk" means milk which is included within that term as defined by Section 32509.

64009. "Market milk" means milk which is included within that term as defined by Section 32510.

64010. "Milk" means the lacteal secretion which is obtained from the udders of cows.

64010.1. "Class 1 milk" means market milk, market skim milk, and market cream that is supplied to consumers or used for the purposes specified in Section 61932.

64010.2. "All other usages" means usages other than class 1 for milk, including manufacturing grade milk received by handlers.

64011. "Milk fat" means the fat of milk.

64012. "Or" and "and," may be construed as interchangeable, as the context may require.

64013. "Person" means an individual, corporation, partnership, limited liability company, trust, association, cooperative association, and any other business unit or organization.

64014. "Processing" means separating, standardizing, pasteurizing, sterilizing, evaporating, condensing, canning, bottling, packaging, or otherwise preparing milk fat in milk, cream, or skim milk for market, or of using it to manufacture or produce any dairy product. "Processing" does not, however, include separating by a producer, on the dairy where the milk is produced nor shall milk so separated be deemed to have been processed. Placing bulk milk, cream, or skim milk in cans for transportation to a handler from the dairy is not canning as that term is used in this section.

64015. "Producer" means any person that produces milk fat and sells it, or delivers possession or control of it, to a handler, in the form of unprocessed milk or cream, or in any other unprocessed form.

64016. "Producer-handler" means any person that produces milk fat and uses such production, or any part of it, for processing. For the purposes of this chapter, except as hereinafter otherwise provided, a producer-handler is a producer in any transaction which involves the

delivery of unprocessed milk fat produced by him to another handler, and is a handler with respect to milk fat produced by him or received from another producer, and processed by such producer-handler.

64017. "Skim milk" is milk from which a substantial part of the milk fat has been removed.

**Article 2. General Provisions ..... 64041-64043**

64041. It is hereby declared, as a matter of legislative determination, that the provisions of this chapter are enacted in the exercise of the police power of this state for the purposes of protecting and furthering the public health and welfare. It is further declared that the dairy industry of this state is affected with a public interest, in that, among other things:

(a) The production, processing, manufacture, and distribution of milk and other dairy products constitute a paramount industry of this state which not only provides substantial and required revenues for the state and its political subdivisions, and employment and a means of livelihood for many thousands of its population, but also furnishes essential foods that are vital to the public health and welfare.

(b) The stabilization, maintenance, and expansion of the dairy industry of California, and of the state, nationwide, and foreign markets for its products, are necessary to assure the consuming public an adequate supply of foods which are indispensable in a proper human diet, to protect, for the state and its political subdivisions, a necessary source of tax revenue, to provide and maintain an adequate standard of living for a great segment of the population of this state, to maintain proper wage scales for those engaged in the dairy industry, and to maintain existing employment.

(c) The essentiality of milk and other dairy products in a proper human nutrition and to the maintenance of a high level of public health is such as to require that the public be made thoroughly aware thereof, and be protected against misrepresentation and deception, by the dissemination of accurate and scientific information relative to the healthful qualities of dairy products, their various classifications and the food values and industrial and medicinal uses thereof, the methods, care and precautions necessary to their proper production, processing, manufacture, and distribution, and the necessary costs and expenses thereof, and the necessity and desirability on the part of the public of using and consuming dairy products of the highest standards of quality.

64042. The purposes of this chapter are as follows:

(a) To enable the dairy industry with the aid of the state, to develop, maintain, and expand the state, nationwide, and foreign markets for dairy products which are produced, processed, or manufactured in this state, and the use and consumption of such dairy products therein.

(b) In aid, but not in limitation, of this purpose, to authorize and enable the director to formulate and effectuate, directly or in cooperation with other agencies and instrumentalities hereinafter specified, sales stimulation and consumer, or other, educational programs designed to increase the use and consumption of milk and other dairy products.

(c) To provide funds for the administration and enforcement of this chapter by fees to be paid by producers and handlers of dairy products, in the manner which is prescribed in this chapter.

64043. This chapter shall be liberally construed. If any section, sentence, clause, or part of this chapter is, for any reason, held to be unconstitutional or invalid, such decision does not affect the remaining portion of this chapter but such unconstitutional or invalid provision is separable from the valid parts of this chapter.

**Article 3. Administration ..... 64071-64073**

64071. The director shall administer and enforce this chapter, and may exercise any or all of the administrative powers which are conferred by Sections 11180 to 11191, inclusive, of the Government Code upon a head of a department. In order to effectuate the declared purposes of this chapter, the director may contract to carry out the declared intent and purposes of this chapter.

64072. The director shall, from records of the department or any other reliable source, maintain a list of producers, producer-handlers, and handlers.

64073. The director may purchase general liability insurance for the council in an amount he or she determines as necessary. The cost of the insurance shall be paid by the council. The insurance policy shall name the director, in his or her official capacity, and the council as insured parties for claims made against the council in its advisory capacity to the director or against the director regarding the activities of the council. The director, after consultation with the Attorney General, may refer claims to the insurance carrier for appropriate action. In the alternative, the director may require that claims be handled in the manner otherwise specified in this chapter.

**Article 4. Dairy Council of California ..... 64101-64118**

64101. There is in the state government the Dairy Council of California which shall consist of not less than 24, nor more than 25 members. The membership of the council shall be as follows:

(a) There shall be 12 members that are actually engaged in the production of milk, or that represent producers that are actually engaged in the production of milk. These 12 members are the producer members of the council.

(b) There shall be 12 members that are handlers or producer-handlers of dairy products. These 12 members are the handler members of the council.

(c) Upon the recommendation of the council, the director may appoint one person who is neither a producer, handler, or producer-handler, and who shall represent the public generally.

64103. Officials or members, otherwise qualified, of corporations, associations, and other business units, which are actually engaged in business as producers, producer representatives, handlers, or producer-handlers of dairy products, are eligible to be members of the council.

64104. The terms of office of the members of the council shall be three years. Appointments shall be made so that the terms of eight members shall expire at the end of one year, eight at the end of two years, and nine at the end of three years.

64105. Any vacancy occurring during the unexpired term shall be filled by the director for the unexpired term from the list of eligible nominees from the nominations received by him pursuant to Section 64108. The director may remove any member of the council for cause deemed sufficient by him and upon such removal there shall be a vacancy which shall be filled in the manner as provided in this section for the unexpired term.

64106. During the month of October of each year, the director shall prepare and mail nomination forms to all producers, producer-handlers, and handlers for the purpose of receiving from them nominations of members of the council. Forms shall be mailed to the list provided for in Section 64072.

64107. The director shall determine the time permitted to file nominations, which shall not exceed 30 days.

64108. (a) Every producer may nominate a nominee for each membership on the council which is to be filled by a producer.

(b) Every handler and producer-handler may nominate a nominee for each handler membership on the council.

(c) Producer representatives may be nominated in the same manner as provided in subdivision (a), except that to be eligible for appointment, the producer representative shall furnish to the director a resolution in writing which shows the official action of the board of directors of the organization he represents so nominating him.

64109. Promptly after termination of the time which is allowed by the director for filing nominations, the director shall make the required number of appointments.

64110. A majority of the members of the council shall constitute a quorum for the transaction of all business, including the election of officers.

64111. The council shall select from its number, to serve at its pleasure, a chairman and vice chairman who together with at least three, and not more than five, other members selected by the council shall constitute the executive committee of the council. The executive committee shall have and exercise such powers of the council as the council may delegate to it.

64112. The council shall have two regular meetings in each year at times and places fixed by the council. The times for regular meetings shall be fixed so that there shall be an interval of at least four calendar months between such meetings. The council may meet in special meetings at any time and place at the call of the chairman. The executive committee shall have four regular meetings each year at times and places fixed by it, and may meet in special meetings at any time and place at the call of the chairman.

64114. The appointed members of the council shall receive one hundred dollars (\$100) per day for each day spent in actual attendance at the meetings or on the business of the council and shall be reimbursed for necessary traveling and other expenses which are incurred in the performance of their official duties.

64115. No member of the council, except a member of the executive committee, shall receive compensation for more than 10 days' service per year. No member of the executive committee shall receive compensation for more than three days' service per month.

64116. The members of the council who are duly appointed by the director, including employees of such council, shall not be held responsible individually in any way whatsoever to any person for liability on any contract or agreement of the council. All salaries, expenses, costs, obligations, and liabilities which arise out of the administration and enforcement of this chapter are payable only from funds

which are collected pursuant to the provisions of this chapter.

64117. The director may require any employee or agent of the council to give a fidelity bond which is executed by a surety company that is authorized to do business in this state in favor of the director, in such sum, and containing such terms and conditions, as the director may prescribe. The cost of any such fidelity bond shall be paid from the funds which are collected pursuant to this chapter.

64118. It is hereby declared, as a matter of legislative determination, that producers, handlers, and producer-handlers appointed to the council pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such council, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

## **Article 5. Powers and Duties ..... 64151-64158**

64151. The duties of the council are advisory, except as to those duties which may be delegated to it by the director. The council may, subject to the approval of the director, exercise any of the following powers:

- (a) To recommend to the director administrative regulations which relate to the administration and enforcement of this chapter.
- (b) To investigate all matters which affect the administration of this chapter, and to report violations of it to the director.
- (c) To employ and, at its pleasure, discharge a manager and such clerical help and other employees as it deems necessary, and to prescribe their duties and powers and fix their compensation.
- (d) To contract with, or employ, and, at its pleasure, discharge such consultants and agencies as it deems necessary, and to outline their powers and duties and fix their compensation.
- (e) To establish offices and incur expenses incidental thereto.
- (f) To recommend to the director the making of such advertising contracts and other agreements as may be necessary to promote the sale of dairy products on either a local, state, national, or international basis.
- (g) To cooperate with any other local, state, or national commission, organization, or agency, whether voluntary or created by state or national law, and engaged in work or activities similar to the work and activities of the council, and recommend to the director the making of contracts and agreements with these organizations or agencies for carrying on joint campaigns of research, education, and advertising. In matters of research, the council shall, however, cooperate with organizations of recognized professional standing which are adequately equipped with facilities for the research which is contemplated.
- (h) To recommend to the director the institution and promotion of scientific research to develop or discover, or both to develop and discover, the health, food, therapeutic, dietetic, and industrial uses of milk and its products and derivatives.
- (i) To cooperate with other public and private agencies which are engaged in similar work or activities in order to avoid or minimize any overlapping or duplication of work or conflict.
- (j) Receive, invest, and disburse funds, pursuant to Article 11 (commencing with Section 64300).

64153. Annually, prior to July 1 of each year, the council shall formulate and transmit to the director statements of its recommended activities and proposed budget for the coming fiscal year. The statements shall:

- (a) Be based on and made after an investigation by the council of the necessities of the dairy industry and the extent of the public interest, necessity, and convenience to be served by those recommended activities.
- (b) Describe the council's recommended programs of research, education, publicity, and advertising.
- (c) Set forth in a proposed budget the amounts which are deemed necessary to be allocated by the director both to effectuate these programs and to perform his or her administrative duties pursuant to this chapter, which budget shall include reasonable amounts for contingencies.
- (d) Be in such form and detail as the director, in the reasonable exercise of his or her judgment, deems necessary to adequately show whether or not the activities are warranted by the facts which are disclosed by the statements and are authorized by this chapter.

64154. If the activities and budgeted amounts which are recommended by the council and are described in the statements provided for in Section 64153 are warranted by the facts which are disclosed by the statements and are authorized by this chapter, the director shall approve the activities for the council programs, in writing, within 20 days after each of the statements has been submitted to him or her. The director shall also approve, in writing, the budget provided for in subdivision (c) of Section 64153 within 20 days after the budget has been submitted. If the director refuses or fails to give any such approvals within the required periods, the director shall notify the council promptly of his or her refusal or failure to approve the activities or budget and give his or her reasons, specifically, for the refusal or failure.

Expenditures for political contributions or for lobbying are not authorized.

64155. The council shall keep accurate books, records, and accounts of all its transactions, dealings, contracts, agreements, funds, and expenditure, which shall at all times be open to inspection and audit by the department. Any ballot which is filed with the director pursuant to this chapter is confidential and shall not be divulged except when necessary for the proper determination of any court proceedings or hearing before the director.

64157. The council shall request the director to submit to it an annual budget which sets forth in reasonable detail the proposed expenditures which he or she deems necessary for the performance by him or her and by the department of the duties which are imposed upon them by this chapter. The council shall also request the director to submit to it an annual statement, in reasonable detail, of his or her expenditures pursuant to this chapter.

64158. The council shall, annually, report to the members of the dairy industry on the activities and programs, including, but not limited to, the income and expenses, the fund balance, and a report of progress in achieving program goals, as prescribed by the director.

#### **Article 6. Research, Advertising, Publicity, and Education Campaigns ..... 64181-64183**

64181. The director shall conduct one or more campaigns of research, advertising, publicity, and education designed to accomplish the following purposes, among others:

- (a) Increase the consumption of dairy products.
- (b) Gather, publicize, and diffuse accurate and scientific information which shows the importance of the use and consumption of milk, cream, and other dairy products in relation to the public health, economy, and diet, and proper nutrition of children and adults.
- (c) Study means and methods employed in producing, processing, manufacturing, marketing, and distributing dairy products in order to comply with the sanitary and other regulations imposed by municipalities, this state or the United States.
- (d) Gather and disseminate information regarding the high standards which are observed and imposed to insure pure and wholesome dairy products and the harmful effects on the public health which result from a breakdown in the stability of the dairy industry, the factors and conditions peculiar to the dairy industry which tend to cause an unbalanced production, the price of milk, cream, and other dairy products in relation to the cost of other items of food in a balanced diet, and the factors which tend to promote increased consumption of dairy products, stabilize the industry, and foster a better understanding and more efficient cooperation among producers, persons that are engaged in the handling, processing, and marketing of dairy products, and the consuming public.

64182. In each fiscal year such amount of the money which is received under this chapter as is determined by the council shall be expended or allocated for research in the discovery and development of uses for milk, milk products, and byproducts of milk.

The council shall select the research projects to be carried on from time to time. Insofar as practicable, such projects shall be carried out by the College of Agriculture of the University of California, pursuant to contract entered into between the regents of the university and the director. If, however, the council determines that the college has no facilities for a particular project or that some other recognized research agency has better facilities for it, the project may be carried out by such other research agency, pursuant to contract with the council.

64183. No advertising or sales promotion program which is conducted or sponsored by the director shall make any false or unwarranted claim, or disparage the quality, value, use, or sale of any commodity which is authorized by law to be marketed in this state, nor shall any such program be conducted with reference to a brand or trade name.

#### **Article 7. Records and Reports ..... 64221-64223**

64221. Every handler and producer-handler shall keep complete and accurate records of all milk, skim milk, and cream in unprocessed form which the handler or producer-handler purchases, or possession or control of which he or she acquires from any producer or other handler. A producer-handler shall include his or her own production in these records. Every handler and producer-handler shall also keep complete and accurate records by class usage of all milk, skim milk, and cream which he or she utilizes for processing.

64222. Such records shall be:

- (a) In such form and contain such information, relevant to the purposes of this chapter, as the director may, by order or regulation, prescribe.
- (b) Preserved for a period of two years.
- (c) Open to inspection at any time on the request of the director.

64223. The director may, by order or regulation require every such handler and producer-handler to file with him returns which give

the information, or any part of the information, in the records, which the first handlers are required to keep pursuant to this article.

The returns shall be on forms which are prescribed and furnished by the director.

**Article 9. Additional Financial Provisions ..... 64282**

64282. The Dairy Council and the director shall prepare or revise the annual budget provided for by this chapter, for each fiscal year during which a more extensive campaign of research, advertising, publicity and education is authorized by producers, handlers, and producer-handlers of market milk for class 1 use, to provide for the more extensive campaign during that year.

**Article 10. Violations and Penalties ..... 64291-64292**

64291. A person shall not use the same name, or a name so similar as to mislead the public into believing it is the same name, as the Dairy Council of California.

64292. Any violation of any provision of this chapter is a misdemeanor.

**Article 11. Financing Plan ..... 64300-64313**

64300. This article provides for a comprehensive and continuing plan for financing the operations of the council.

64301. Annually, prior to the commencement of the fiscal year, the secretary shall, upon recommendation of the council, establish and announce the fees for milk used in class 1 and for all other usages to be paid by producers, producer-handlers, and handlers for the coming fiscal year.

These fees shall be established at levels sufficient to finance the budget for the coming fiscal year as approved by the secretary pursuant to Sections 64153 and 64154.

The fee established by the secretary for class 1 milk shall not exceed two cents (\$.02) per hundredweight of such market milk testing 3.5 percent milkfat and 8.7 percent solids-not-fat.

The fee established by the secretary for all other usages of milk shall not exceed eight mills (\$.008) per hundredweight of milk testing 3.5 percent milkfat and 8.7 percent solids-not-fat.

The relationship between the fees per hundredweight established for class 1 milk and for all other usages shall be at a ratio of 2.5 to 1. These fees shall be the same for producers and handlers.

64302. (a) Each producer and producer-handler shall pay fees established for each hundredweight of milk produced by him or her in the state and delivered to a handler. The fees shall be collected by the first handler that purchases, or otherwise acquires possession or control of, this milk by deducting the fee from any payment which is due the producer for this milk. Each producer-handler shall pay the fee on his or her own production. For the purposes of this article, a handler that sells unprocessed milk, of which he or she has the right to possession or control by contract or otherwise, to another handler, and delivers this milk in unprocessed form to this other handler or causes this milk to be delivered to this other handler directly from the producer, is the first handler of this milk.

(b) For the purpose of this chapter, the class 1 fee of each producer shall be determined on the hundredweight equivalent computed by combining the class 1 fat usage and the class 1 skim usage included in the payment to the producer. This skim usage shall be computed by dividing the solids-not-fat usage by the monthly average solids-not-fat test of skim milk first received from the producer by handlers or producer-handlers.

(c) The fee of each producer for all other milk shall be determined on the total hundredweight of milk produced and delivered remaining after deducting the class 1 equivalent as computed herein.

(d) The collection of fees to be paid by handlers, including producer-handlers, pursuant to Section 64303 is to be used for the handler portion of council assessments only, and shall not affect payments of producers, nor in any way change the method of producer payment for milk.

64303. Each handler and producer-handler shall pay to the director the fees established for class 1 milk and for milk for all other usages on all milk, skim milk, and cream utilized in the plant of the handler, or producer-handler in the processing and manufacture of milk.



and milk products. This usage shall be computed by combining pounds of fat and skim milk so utilized, together with allocated plant loss of this milkfat and skim milk.

64304. The fees established and assessed as prescribed in this chapter shall be billed monthly to the handler and the producer-handler, and shall be paid to the director not later than the 15th day of the second month following the month during which the milk was received.

64305. Fees established and assessed under this chapter may be collected by the director through direct payment or through pool accounting procedures established by the director under Chapter 3 (commencing with Section 62700).

64306. To the amount of fees which are unpaid when due, the director may add a penalty of 10 percent.

64307. The director, by action prosecuted by him or her, may recover any unpaid fees. In any action, a certificate of the director which shows the amount, including penalty, determined by the director to be required to be paid by the person required to pay this amount is prima facie evidence of the delinquency. The presumption established by this section is a presumption affecting the burden of proof.

64308. If any handler or producer-handler does not provide the information necessary to determine the amount of fees due, when required, the director shall estimate the amount due from the records of the department or from any other source of information which is available. In any action by the director to recover fees pursuant to this chapter, a certificate of the director which shows the amount determined by the director to be required to be paid by the person that is required to pay the fees is prima facie evidence of the delinquency of the amount which is shown. The presumption established by this section is a presumption affecting the burden of proof.

64308.5. (a) Fees paid on milk pursuant to this chapter shall be refunded to producers who meet the following criteria:

(1) The producer shipped the milk to a processor during the months of June or July 1986.

(2) The producer was not paid, or received only partial payment, for the milk shipped.

(3) The producer has agreed to repay the refunded fees to the affected programs if, at a subsequent date, the producer is paid for the milk.

(b) The producer shall receive a full refund of the fees paid on milk shipped for which no payment was received. If partial payment was received the producer shall receive a refund of the fees paid on milk for which payment was not received.

(c) In lieu of payment to the producer, the refund shall be paid to an entity which markets milk or otherwise acts on behalf of a producer who would otherwise qualify for the refund under subdivision (a) if that entity demonstrates to the satisfaction of the director that it paid the fees for the producer.

(d) If a producer, or an entity referred to in subdivision (c), subsequently receives full or partial payment for milk for which fees have been refunded, the producer or entity, as the case may be, shall repay the fees in an amount proportionate to the portion of milk for which payment has been received.

(e) Refunds shall not be made pursuant to this section if the refund would cause a producer to incur an additional assessment obligation to the National Milk Promotion Program.

(f) The director shall adopt procedures for refunding fees in accordance with this section. Those procedures shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

64309. (a) Any money which is collected by the director pursuant to this chapter shall be deposited in a bank or other depository which is approved by the Director of Finance. Funds which are so collected shall be deposited and disbursed in conformity with appropriate regulations prescribed by the director and may be allocated to pay for expenses generated by the auditing requirement imposed by subdivision (b). The expenditure of those funds shall be exempt from the provisions of Section 925.6 of the Government Code.

(b) All such expenditures by the director shall be audited at least once every two years by one of the following means:

(1) By contract with a certified public accountant.

(2) By contract with a public accountant holding a valid permit issued by the State Board of Accountancy.

(3) By contract with a public accounting firm.

(4) By agreement with the Department of Finance.

A copy of the audit shall be delivered within 30 days after the completion thereof to the Governor, the director, and the Controller.

64310. Any money which is collected by the director pursuant to this chapter is hereby appropriated to the department to carry out the duties which are imposed upon the director and the council pursuant to this chapter. The appropriation which is made in this section is exempt from the operation of Section 16304 of the Government Code.

The money which is collected by the director pursuant to this chapter shall be disbursed by the director only for the necessary expenses incurred by the council and the director to carry out the purposes of this chapter, including the payment of refunds which are authorized pursuant to this chapter. The director may disburse these funds in authorized activities related to particular dairy products without reference to the branches of the dairy industry from which these funds are derived.

64311. Any money which is deposited pursuant to Section 64309, which the director determines is available for investment, may be invested or reinvested by the Treasurer or the council in any of the securities described in Article 1 (commencing with Section 16430) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, or placed in a depository as provided in Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code, and handled in the same manner as money in the State Treasury. For these purposes, these moneys may also be combined with funds determined by the director to be available for investment pursuant to Section 58939.

64312. Any increment which is received from investment, reinvestment, or deposit of money pursuant to Section 64311 shall be deposited to the credit of the council. The State Treasurer may deduct from this remittance an amount equal to the reasonable costs incurred in carrying out the provisions of this article or may bill the director for the costs and the director shall pay the costs from moneys collected pursuant to this chapter.

64313. This article shall become operative on January 1, 1983.

## **Article 12. Referendum ..... 64320-64322**

64320. (a) Between July 1, 1983, and December 31, 1983, and in the same period each five years thereafter, the secretary shall, by the public hearing procedure, and if appropriate, the referendum procedure provided for in this article, determine whether the council program provided for in this chapter shall continue in effect.

(b) If the secretary finds from evidence received at the hearing that a substantial question exists as to whether the council program is contrary to or does not effectuate the declared purposes or provisions of this chapter, the council program shall be submitted to referendum as provided in subdivision (c).

(c) If the secretary determines that a referendum procedure is appropriate, the secretary shall establish a referendum period of not to exceed 30 days during which period ballots shall be submitted to all producers, producer-handlers, and handlers on a statewide basis. If the secretary determines that the referendum period does not provide sufficient time for the balloting, the secretary may extend the referendum for an additional period not to exceed 30 days. The ballots shall provide a "yes" or "no" voting alternative to the question:

"Shall the Dairy Council of California be continued for the next five fiscal years commencing July 1 following this referendum?"

64321. If the council program is submitted to a referendum, the secretary shall find that producers, handlers, and producer-handlers statewide have assented to the council program if he or she finds both of the following:

(a) Sixty-five percent or more of the total number of handlers, including producer-handlers, voting approve the program.

(b) (1) Not less than 51 percent of the total number of eligible producers, including producer-handlers, in the state voted in the referendum.

(2) Sixty-five percent or more of the total number of eligible producers, including producer-handlers, who voted in the referendum and who produced 51 percent or more of the total amount of fluid milk produced during the second calendar month preceding the month of the commencement of the referendum period by all producers who voted in the referendum approve the program, or 51 percent or more of the total number of eligible producers who voted in the referendum and who produced 65 percent or more of the total amount of fluid milk produced during the second calendar month preceding the month of the commencement of the referendum period by all producers who voted in the referendum, approve the program.

64321.5. If the secretary finds that producers, handlers, and producer-handlers have not assented to the council program pursuant to Section 64321, the program may be resubmitted to a referendum as prescribed herein within a period of not less than 60 days and not more than 180 days after the secretary announces the plan was not approved.

64322. (a) If the council program has been submitted to referendum pursuant to procedures prescribed in Section 64321 and the secretary finds that producers, handlers, and producer-handlers have not assented to the program, or if the program is resubmitted pursuant to Section 64321.5 and the secretary finds that assent is again not forthcoming, operations of the provisions of this chapter and of the council shall be suspended commencing July 1 following the referendum or referendums.

(b) After the effective date of suspension of the operation of the provisions of this chapter and of the council, the operations of the council shall be wound up, and any real and personal property held in the name of the council shall be liquidated and the proceeds, along with any and all remaining money held by the council, collected by assessment and not required to defray the expenses of winding up and terminating operations of the council, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding three months. However, if the secretary finds that the amounts so returnable are so small as to make impractical the

computation and remitting of the pro rata refund to these persons, any moneys remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into the State Treasury as unclaimed trust moneys.